

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHIGAN PROTECTION & ADVOCACY
SERVICE, INC.,

Plaintiff,

v.

Case Number 15-12470
Honorable David M. Lawson

FLINT COMMUNITY SCHOOLS and
LARRY WATKINS, JR.,

Defendants.

ORDER GRANTING IN PART MOTION FOR INDICATIVE RULING

On November 23, 2015, the Court issued an opinion granting the plaintiff's motion for a preliminary injunction and ordering the defendants to respond within certain time limits to any requests for school records received from the plaintiff during the pendency of this litigation. On December 21, 2015, the defendants filed a notice of appeal of that ruling. On November 18, 2016, while the defendants' appeal was still pending, the parties filed a joint motion seeking an indicative ruling from the Court, under the authority of Federal Rule of Civil Procedure 62.1. *See* Fed. R. Civ. P. 62.1(a) ("If a timely motion is made for relief that the court lacks authority to grant because of an appeal that has been docketed and is pending, the court may: (1) defer considering the motion; (2) deny the motion; or (3) state either that it would grant the motion if the court of appeals remands for that purpose or that the motion raises a substantial issue."). The parties state in their motion that during the proceedings on appeal they engaged in mediation discussions and reached an agreement to settle all of the claims in the case. They now seek a ruling from this Court indicating whether upon remand of the case for the purpose of a resolution in conformance with that settlement, the

Court would “accept the limited remand from the Court of Appeals and proceed to enter the parties’ settlement agreement as an order of the Court.”

The parties did not include or submit to the Court a copy of the settlement agreement or any information describing its terms, or the terms of any order that they intend to present to the Court in furtherance of the agreement. However, there is a passing reference in the joint motion to a term of the agreement by which the parties postulate that “the District Court will retain jurisdiction [over] this case for the purpose of interpreting and enforcing the terms of the Settlement Agreement for five (5) years” from the date of the settlement. Because the parties have not informed the Court of the precise terms of any relief that they may ask the Court to grant upon remand, the Court is not able fully to consider or grant their request for an indicative ruling. However, the Court will grant in part the request and indicate that if the relief to which the parties mutually have agreed is materially congruent to the terms of the injunction previously issued by the Court and otherwise reasonable, and if the parties submit to the Court a proposed consent judgment comprising such relief and providing that the Court shall retain jurisdiction to enforce the same for five years, then the Court perceives no obstacle to resolving the case by entry of such a consent judgment.

Accordingly, it is **ORDERED** that the joint motion of the parties for an indicative ruling [dkt. #33] is **GRANTED IN PART**. The Court hereby indicates that, if the case is remanded for the purpose of resolution according to the terms of the settlement agreement reached by the parties, and if the relief to which the parties mutually have agreed is materially congruent to the terms of the injunction previously issued by the Court and otherwise reasonable, and if the parties submit to the Court a proposed consent judgment comprising such relief and providing that the Court shall retain

jurisdiction to enforce the same for five years, then the Court perceives no obstacle to resolving the case by entry of such a consent judgment.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: November 22, 2016

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on November 22, 2016.

s/Susan Pinkowski
SUSAN PINKOWSKI